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June 2, 2009

JOHN S. KIRKHAM
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Hand Delivery

John R. Baza, Division Director
Division of Oil, Gas & Mining
Dept. of Natural Resources
State of Utah
1594 West North Temple, Suite 1210
Salt Lake City, UT 84111-5801

**Re: Challenge to Ownership or Control listing or finding: Midterm Review Task
ID # 2878, PacifiCorp/Energy West, Trail Mountain Mine, C/015/009**

Dear Mr. Baza:

Pursuant to the provisions of 30 CFR §§ 773.26, 773.27 and 773.28, PacifiCorp and its operating subsidiary Energy West Mining Company, by and through their undersigned counsel, do hereby challenge the findings contained in the above-captioned "Midterm Review Deficiency List" identified as Task # 2878, Trail Mountain Mine Midterm Review, with specific reference to the items identified as R645-301-113.300 and R645-300-132 (hereinafter referred to as "Findings"). The Findings allege that PacifiCorp is linked through "Paul Leighton", a Vice-President of MidAmerican Energy Holdings Company, for the nonpayment of AML fees in the state of Pennsylvania.

This challenge to that linkage is based upon the fact that the individual named Paul Leighton, who is a Vice-President and Assistant Secretary of MidAmerican Energy Holdings Company, a parent corporation of PacifiCorp, did not at the time of the alleged nonpayment of AML fees have any connection with the alleged violators and that Paul Leighton does not now hold and has never held, a position of ownership or control in either of the entities alleged to have failed to pay the AML fees that would allow him to cause a payment to be made, or not to be made, by that entity.

OVERVIEW

PacifiCorp, through its operating subsidiary, Energy West Mining Company, conducts operations at the Trail Mountain Mine pursuant to permit C/015/0009. PacifiCorp also conducts



John R. Baza
June 2, 2009
Page 2

operations in the State of Utah at other permitted mines and in other states that are subject to the Surface Coal Mining and Reclamation Act administered by the Office of Surface Mining and Reclamation and Enforcement ("OSMRE"). The Division is the regulatory authority with jurisdiction over PacifiCorp's operations in the state of Utah and is in the position to receive challenges under the regulations of the OSMRE found at 30 CFR §§ 773.26, 773.27 and 773.28.

In connection with the Midterm Review of the Trail Mountain Mine Permit, by letter dated February 18, 2009, addressed to Kenneth S. Fleck, Manager of Geology and Environmental Affairs, Energy West Mining Company, the Division identified the fact that in connection with the search of the federal database contained in the Applicant Violator System ("AVS"), a link was established between Paul J. Leighton, Vice-President and Assistant Secretary MidAmerican Energy Holdings Company, and certain alleged violations by operators in the state of Pennsylvania. The deficiency list attached to the February 18, 2009 letter identifies the two unabated federal violations as: 900101060 and 900101156. The identification numbers contained in the deficiency list for the permits are identified as 360268501S and 360356301S. The alleged unabated federal violations are said to be for the "nonpayment of AML fees."

Prior to 2006, Paul J. Leighton had no relationship of any kind to PacifiCorp. In 2006, PacifiCorp was acquired and currently is owned by PPW Holdings LLC. PPW Holdings LLC is owned by MidAmerican Energy Holdings Company. As indicated, Paul J. Leighton is Vice-President and Assistant Secretary, MidAmerican Energy Holdings Company.

The alleged link between Paul J. Leighton and the entities identified by the AVS data was also identified in a previous midterm review related to PacifiCorp's operations. At that time, PacifiCorp requested an informal explanation from the AVS office as to the reasons for the alleged linkage between the alleged violators and Paul J. Leighton. The response from the AVS office to that earlier inquiry indicated that there are two alleged audit debts identified by audits conducted prior to 1992 that related to the following entities:

Audit Debt. 900101060 issued to Alumbaugh Coal Corporation

Audit Debt. 900101156 issued to Coal Junction Coal Co.

In the AVS office report, Paul J. Leighton is alleged to be an officer of Alumbaugh Coal Corporation, Coal Junction Coal Co. and a previous corporate entity having the name MidAmerican Energy Holdings Company.



John R. Baza
June 2, 2009
Page 3

The AVS office provided photocopies of two audit mine detail reports based on the audits showing the times and amounts of the alleged under payments. The audit mine detail report with respect to Coal Junction Coal Co. is attached to this letter as Exhibit A and shows that the alleged under reporting of coal tonnages occurred during the fourth quarter of 1983, 1984 and 1985.

The audit mine detail report for Alumbaugh Coal Corporation is attached to this letter as Exhibit B and indicates that the alleged under reporting occurred during calendar year 1983.

The AVS office also provided copies of documents entitled Organizational Family Tree ("OFT") for two different entities having the name Coal Junction Coal Co. Paul Leighton is only associated with the entity identified as Coal Junction Coal Co. having an identification number of 050219. Paul J. Leighton is not shown as having any connection with Coal Junction Coal Co. Inc. identified as entity 109060.

With respect to entity 050219, Paul J. Leighton is identified only as "SEC" and there is no "begin date" or "end date" found in the Organizational Family Tree.

The source of the information in this document is unknown. The Organizational Family Tree was not provided for Alumbaugh Coal Corporation but it is assumed that the AVS Office would show Paul J. Leighton as secretary based upon the information provided below.

The relationship between PacifiCorp and the two entities alleged to have underpaid AML fees is somewhat complex. At one time during their existence, Coal Junction Coal Co. and Alumbaugh Coal Corporation were subsidiaries of an entity known as Donovan Companies, Inc. ("Donovan"). As the owner of the stock of Coal Junction Coal Co., Donovan caused the dissolution of Coal Junction Coal Co. in 1984. Alumbaugh Coal Corporation discontinued its business during the 1980's but was not dissolved until 1995.

On October 21, 1985, an Agreement and Plan of Merger ("Merger Agreement") was entered into by and among Donovan Companies, Inc., Midwest Energy Company ("Midwest") and MWE Acquisition Company, a wholly owned subsidiary of Midwest ("MWE"). Pursuant to the Merger Agreement, MWE merged into Donovan with Donovan being the surviving corporation. The merger took place on January 8, 1986 at which time, Donovan became a wholly owned subsidiary of Midwest. At the time of this merger, Paul J. Leighton was an employee of Midwest and had no employment, contractual, ownership or other relationship with any of



John R. Baza
June 2, 2009
Page 4

Donovan, Alumbaugh Coal Corporation or Coal Junction Coal Co. MidAmerican Energy Holdings Company is the successor in interest as a result of several other mergers to Midwest.

The evidence presented below will demonstrate that while certain documents indicate that P.J. Leighton at one time occupied the position of secretary of Alumbaugh Coal Corporation and the position of "SEC" of Coal Junction Coal Co. at no time during the period of their existence or following their dissolution did Paul J. Leighton occupy a position of ownership or control within either of the entities nor did he have any relationship whatsoever to either of the entities during the period of the alleged under payment.

SECTION 773.27 EVIDENCE

In support of its challenge to the Findings, PacifiCorp provides the following evidence in response to the requirements of Section 773.27.

Coal Junction Coal Co.

The only evidence showing a relationship between Paul J. Leighton and Coal Junction Coal Co. is contained in the OFT and merely indicates that Paul J. Leighton was "SEC." There is no indication as to the time period he occupied that position nor is there any indication that by occupying the position of "SEC" he had any ownership or control capacity whatsoever. Attached to this letter is the Affidavit of Paul J. Leighton, also known as P.J. Leighton, Vice-President and Assistant Secretary, MidAmerican Energy Holdings Company ("Leighton Affidavit"). The Leighton Affidavit provides evidence regarding the history of Coal Junction Coal Co. Specifically, it provides evidence that Coal Junction Coal Co. was dissolved in 1984 prior to the time of any possible relationship between Paul J. Leighton as an employee of MidAmerican Energy Holdings Company. The alleged underpayment of AML fees by Coal Junction Coal Co. occurred during calendar years 1983, 1984 and 1985. The Leighton Affidavit confirms that MidAmerican Energy Holdings Company, through its predecessor Midwest Energy Company, did not obtain any relationship whatsoever with Coal Junction Coal Co. prior to its dissolution.

The Leighton Affidavit also contains the documentary evidence to confirm that the state of Pennsylvania acknowledged the dissolution of Coal Junction Coal Co. on December 21, 1984.

The Leighton Affidavit confirms that Paul J. Leighton did not own or control Coal Junction Coal Co. or any relevant portion or aspect thereof, nor did he own or control the Coal Junction Coal



John R. Baza
June 2, 2009
Page 5

Co. or any relevant portion or aspect thereof during the relevant time period, namely calendar years 1983, 1984 and 1985.

The Leighton Affidavit also confirms that he did not occupy the position of secretary of Coal Junction Coal Co. for any purpose other than the winding up of the affairs of that entity and that his appointment to the position of secretary did not occur until after October 21, 1985.

Because Coal Junction Coal Co. has not existed since 1984 and given Paul J. Leighton's limited relationship with that entity, he is not able to provide certified copies of corporate minutes or other documents confirming the evidence contained in his affidavit. Certified copies of the documents filed in the state of Pennsylvania can be requested but it is submitted that the photocopies provided in connection with the Leighton Affidavit are sufficiently credible to constitute satisfactory evidence for this purpose.

Alumbaugh Coal Corporation

The history of Alumbaugh Coal Corporation is somewhat different than Coal Junction Coal Co. Alumbaugh Coal Corporation was not dissolved until a period of time subsequent to the acquisition of Donovan and its subsidiaries. As evidenced by the Leighton Affidavit, Alumbaugh Coal Corporation continued to exist until it was issued its certificate of dissolution on April 7, 1995. The notice of intent to dissolve on behalf of Alumbaugh Coal Corporation was signed by P.J. Leighton as secretary. As evidenced by the corporate resolution dated April 21, 1988, P.J. Leighton did not assume the position of corporate secretary until that date. In his position as corporate secretary, P.J. Leighton was authorized to execute certain documents on behalf of Alumbaugh Coal Corporation but he did not ever hold a position of ownership or control in that corporation. Instead, he was merely carrying out the ministerial functions authorized by the board of directors and the Alumbaugh Coal Corporation bylaws.

Therefore, with respect to Alumbaugh Coal Corporation, it is also demonstrated by the evidence that P.J. Leighton did not own or control Alumbaugh Coal Corporation, during any relevant portion or aspect thereof nor at any time during 1983, the period of the alleged under payment, did P.J. Leighton have any relationship whatsoever with Alumbaugh Coal Corporation.

Conclusion

Based upon the foregoing evidence, it is clearly demonstrated that at no time during their existence did P.J. Leighton occupy an ownership or control capacity within Coal Junction Coal



John R. Baza
June 2, 2009
Page 6

Co. or Alumbaugh Coal Corporation. It is also demonstrated that during the relevant time period of the alleged under payment, P.J. Leighton had no relationship whatsoever to either of these entities.

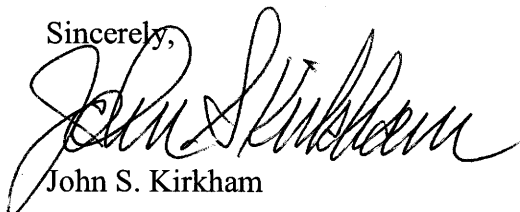
Requested Action

Based upon the foregoing, it is hereby requested that the Findings as contained in the Deficiency List be deemed satisfied based upon the fact that P.J. Leighton, also known as Paul J. Leighton, does not now have nor has he ever had a position that gave him the capacity to own or control either Coal Junction Coal Co. or Alumbaugh Coal Corporation.

It is also requested that action be taken by the OSMRE within the AVS office to eliminate the link between PacifiCorp and Coal Junction Coal Co. and Alumbaugh Coal Corporation.

Please contact the undersigned if you have any questions or concerns with regard to any of the foregoing.

Sincerely,



John S. Kirkham

JSK:jse
Enclosures

from

Today's date, time is: THU, JUN 14, 2007, 1:44 PM
Interest, Penalty, and Admin. have been accrued through: 06/14/07

Audit Mine Detail Report

Audit # 900101156	Region 1	Audit Reason 7
Company COAL JUNCTION COAL CO	Audit Office 01	Last Findings
Address PO BOX 1348	Auditor 511	Prior Pay Status F
	No. Prev. Audits 1	
City SIOUX CITY, IA 51102	Entity # 050219	Remarks CONVERSION DATA

Permit #: 360268501S Mine ID: 3602685 01 S Permit Entity:

Doc Date	YY-Q	Reported Tons	Audited Tons	Difference
06/09/92	83 1	25,609.86	25,609.86	0.00
06/09/92	83 2	16,350.14	16,350.14	0.00
06/09/92	83 3	24,974.39	24,974.39	0.00
06/09/92	83 4	25,775.82	52,840.61	27,064.79
06/09/92	84 1	28,122.36	28,122.36	0.00
06/09/92	84 2	18,891.42	18,891.42	0.00
06/09/92	84 3	10,250.08	10,250.08	0.00
06/09/92	84 4	5,109.86	22,445.14	17,335.28
06/09/92	85 1	0.00	0.00	0.00
06/09/92	85 2	0.00	0.00	0.00
06/09/92	85 3	0.00	0.00	0.00
06/09/92	85 4	0.00	1,000.00	1,000.00
		155,083.93	200,484.00	45,400.07

Enter audit number to display, or '//' or 'EXIT' or 'exit' to end program.

900101060

The following reports are available to you:

Attach 2

S - Audit Summary Report
Q - Audit Quarters Report
D - Audit Mine Detail Report

A - All Reports
// - Exit program

Enter option:

D

Today's date, time is: THU, JUN 14, 2007, 1:43 PM

Interest, Penalty, and Admin. have been accrued through: 06/14/07

Audit Mine Detail Report

Audit # 900101060
Company ALUMBAUGH COAL CORP
Address RD #1

Region 1
Audit Office 01
Auditor 511
No. Prev. Audits 0
Entity # 052806
Audit Reason 7
Last Findings
Prior Pay Status N
Remarks CONVERSION DATA

City FRIEDENS, PA 15541

Permit #: 360356301S

Mine ID: 3603563 01 S Permit Entity:

Doc Date	YY-Q	Reported Tons	Audited Tons	Difference
06/09/92	83 1	0.00	8,293.50	8,293.50
06/09/92	83 2	0.00	8,293.50	8,293.50
06/09/92	83 3	0.00	8,293.50	8,293.50
06/09/92	83 4	0.00	8,293.50	8,293.50
06/09/92	84 1	0.00	0.00	0.00
06/09/92	84 2	0.00	0.00	0.00
06/09/92	84 3	0.00	0.00	0.00
06/09/92	84 4	0.00	0.00	0.00
06/09/92	85 1	0.00	0.00	0.00
06/09/92	85 2	0.00	0.00	0.00
06/09/92	85 3	0.00	0.00	0.00
06/09/92	85 4	0.00	0.00	0.00
06/09/92	86 1	0.00	0.00	0.00
06/09/92	86 2	0.00	0.00	0.00
06/09/92	86 3	0.00	0.00	0.00
06/09/92	86 4	0.00	0.00	0.00
06/09/92	87 1	0.00	0.00	0.00
06/09/92	87 2	0.00	0.00	0.00
06/09/92	87 3	0.00	0.00	0.00
06/09/92	87 4	0.00	0.00	0.00
06/09/92	88 1	0.00	0.00	0.00
06/09/92	88 2	0.00	0.00	0.00
06/09/92	88 3	0.00	0.00	0.00
06/09/92	88 4	0.00	0.00	0.00
06/09/92	89 1	0.00	0.00	0.00
06/09/92	89 2	0.00	0.00	0.00
06/09/92	89 3	0.00	0.00	0.00

06/09/92 89 4 0.00 0.00 0.00

0.00 33,174.00 33,174.00
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attch 3

Date: 14-Jun-2007

Applicant Violator System
Organizational Family Tree (OFT)

Time :15:55:48
Page: 1

(109060) COAL JUNCTION COAL CO INC

Total Number: 11

Entity ID	Name	Desc Code	Begin Date	End Date	Pct. Hold Own. Code
049152	MCINTIRE, WILLIAM J	OWN	10-Jul-1985		FAD
054695	DIXON, JOAN M	OWN	22-Jul-1985		
054696	DIXON, RUSSELL	OWN	10-Jul-1985		
054879	THOMAS, MILLARD D	OWN	10-Jul-1985		
054880	BUCHLEITNER, ROBERT G	PRS	1-Jan-1988		
054880	BUCHLEITNER, ROBERT G	SEC	1-Jan-1988		
054880	BUCHLEITNER, ROBERT G	TRS	1-Jan-1988		
054880	BUCHLEITNER, ROBERT G	SH	1-Jan-1988		100%
126386	MCINTIRE, DONNA V	OWN	22-Jul-1985		
134002	THOMAS, JEAN L	OWN	22-Jul-1985		
054879	THOMAS, MILLARD D	PRS	11-Sep-1986	1-Jan-1988	

Attach 3

Date: 14-Jun-2007

Applicant Violator System
Organizational Family Tree (OFT)

Time :15:18:32

Page: 1

(050219) COAL JUNCTION COAL CO

Total Number: 21

Entity ID	Name	Desc Code	Begin Date	End Date	Pct. Hold Own. Code
052815	DUNDERI, JOHN J	VP	2-Jan-1986		
054696	DIXON, RUSSELL	PAR	10-Jul-1985		
054769	KRANZ, JAMES J	DIR	24-Nov-1978		
054769	KRANZ, JAMES J	PRS	24-Nov-1978		
054769	KRANZ, JAMES J	SEC	24-Nov-1978		
054769	KRANZ, JAMES J	TRS	24-Nov-1978		
054879	THOMAS, MILLARD D	PAR	28-Dec-1984		
129285	PETERSON, ROBERT	PRS			
129286	BRINK, AL	ASC			
129287	LEIGHTON, PAUL J	SEC			
131732	HUNTER, R L	ASC	15-Nov-1983		
131732	HUNTER, R L	TRS	15-Nov-1983		
131733	OBRIEN, C J	SEC	24-Nov-1978		
131734	HERMES, L J	TRS	24-Nov-1978		
131752	DONOVAN, GERALD	DIR	12-Dec-1984		
052809	HUNTER, WILLIAM L	VP	11-Nov-1980	13-Feb-1985	
107417	HENRY, ROBERT P	VP	11-Nov-1980	13-Feb-1985	
054765	METHOD, JOSEPH S	PRS	11-Nov-1980	4-Mar-1986	
054766	BUSSEN, ROBERT M	SEC	20-Jan-1982	4-Mar-1986	
054879	THOMAS, MILLARD D	VP	28-Dec-1984	4-Mar-1986	
119112	DONOVAN CONSTR CO OF MINNESOTA	OWN	24-Nov-1978	13-Dec-1989	

AFFIDAVIT OF PAUL J. LEIGHTON

State of Iowa)
) ss.
County of Polk)

Paul J. Leighton, being first duly sworn, deposes and says:

1. I am Vice-President and Assistant Secretary of MidAmerican Energy Holdings Company ("MEHC"). I am acting as an agent of MEHC in making this affidavit and do so based upon my best information and belief. I am also known as P.J. Leighton.

2. I am cognizant of the facts contained herein.

3. In connection with my employment by MEHC and its predecessors and related entities, I was asked to serve as the corporate secretary of Alumbaugh Coal Corporation, a Minnesota corporation ("Alumbaugh"), in 1988.

4. At one time, Alumbaugh was a wholly owned subsidiary of Donovan Companies, Inc. ("Donovan").

5. On October 21, 1985, an Agreement and Plan of Merger ("Merger Agreement") was entered into by and among Donovan, Midwest Energy Company ("Midwest") and MWE Acquisition Company, a wholly owned subsidiary of Midwest ("MWE"). Pursuant to the Merger Agreement, MWE merged into Donovan with Donovan being the surviving corporation. The merger took place on January 8, 1986 at which time Donovan became a wholly owned subsidiary of Midwest.

6. MEHC is the successor in interest as a result of several other mergers to Midwest.

7. Attached to this Affidavit as Exhibit "A" is a photocopy of a written consent of the Board of Directors of Alumbaugh dated April 21, 1988 containing the first identified action of Alumbaugh appointing Paul J. Leighton to the position of "corporate secretary."

8. I did not serve in any other capacity in connection with Alumbaugh.

9. I had no employment, contractual or other relationship of any kind with Alumbaugh prior to January 8, 1986.

10. In my position as secretary, I executed various corporate documents on behalf of Alumbaugh from time to time.

11. Attached to this affidavit as Exhibit "B" is a photocopy of a "Notice of Intent to Dissolve" on behalf of Alumbaugh dated March 27, 1995, signed by P.J. Leighton, Secretary, and showing a received stamp by the State of Minnesota, Department of State, dated April 7, 1995.

12. Attached to this affidavit as Exhibit "C" is a photocopy of a "Certificate of Dissolution" issued by the State of Minnesota showing Alumbaugh was dissolved effective April 7, 1995.

13. At no time did I have an ownership interest in Alumbaugh.

14. At no time have I held an office or been employed in a position that would allow me to exercise any control over the actions of Alumbaugh or cause any monies to be paid or not be paid by Alumbaugh.

15. At one time Coal Junction Coal Co., a Pennsylvania corporation, was a wholly owned subsidiary of Donovan.

16. Attached to this Affidavit as Exhibit "D" is a photocopy of a letter dated March 17, 2000 from the law firm of Kirkpatrick & Lockhart LLP, signed by Joel R. Burcat, with attachments, explaining the corporate history of Coal Junction Coal Co. The letter also explains the relationship to "Coal Junction Coal Co., Inc." a completely separate and unaffiliated entity. The letter was sent to the State of Pennsylvania, Department of Environmental Protection. One of the attachments to the letter is a certificate of Coal Junction Coal Co. dated December 21, 1984 evidencing it was dissolved as of that date. The photocopy shows it was filed with the State of Pennsylvania on December 27, 1984 as document number 84791116. The name Paul J. Leighton or P.J. Leighton does not appear in any of the documentation related to Coal Junction Coal Co.

17. In connection with my employment by MEHC and its predecessors and related entities, it is possible that after the Donovan acquisition by Midwest I was asked to serve as the corporate secretary of Coal Junction Coal Co. for the limited purpose of executing documents on its behalf as it wound up its business following its dissolution in December, 1984. I presently have no documentation to confirm such a limited appointment.

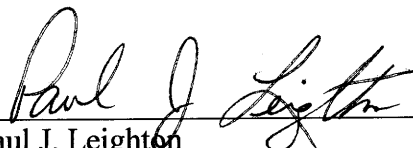
18. I did not serve in any other capacity in connection with Coal Junction Coal Co.

19. I had no employment, contractual or other relationship of any kind with Coal Junction Coal Co. prior to January 8, 1986.

20. At no time did I have an ownership interest in Coal Junction Coal Co.

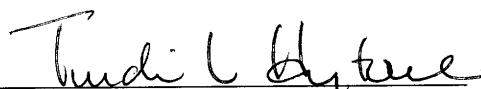
21. At no time have I held an office or been employed in a position that would allow me to exercise any control over the actions of Coal Junction Coal Co. or cause any monies to be paid or not be paid by Coal Junction Coal Co.

Dated this 2nd day of June, 2009



Paul J. Leighton
Vice-President and Assistant Secretary
MidAmerican Energy Holdings Company

Subscribed and Sworn to before me this 2nd day of June, 2009.



Trudi L. Hytone
Notary Public

My Commission Expires:



ALUMBAUGH COAL CORPORATION

Action by Directors Without a Meeting

April 21, 1988

The undersigned, being all of the duly elected and qualified Directors of Alumbaugh Coal Corporation (Company), a Minnesota corporation, in accordance with Section 302A.239 of the Minnesota Business Corporation Act, do hereby unanimously adopt the resolution set forth below:

RESOLVED, That the following persons are hereby elected to hold the offices set opposite their respective names for the ensuing year or until their respective successors are elected and have qualified:

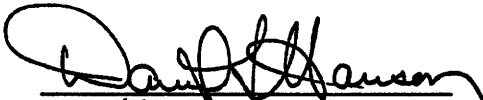
James J. Kranz


President, Assistant
Secretary and Assistant
Treasurer

David L. Hanson
Marlys D. Johnson
Paul J. Leighton

Vice President
Treasurer
Corporate Secretary


Robert A. Peterson


David L. Hanson


James J. Kranz

2E-780

2418


SECRETARY OF STATE
180 STATE OFFICE BUILDING
ST. PAUL, MN 55155-1299

NOTICE OF INTENT TO DISSOLVE

BY SHAREHOLDER

- I. The name of the corporation is Alumbaugh Coal Corporation.
- II. The dissolution was authorized by written action of the Shareholder of Alumbaugh Coal Corporation dated March 6, 1995:
 - A. The number of votes entitled to be cast on the proposal to dissolve: 5,000
 - B. The total number of votes cast for the dissolution was 5,000 and the number of votes cast against the dissolution was 0.


ALUMBAUGH COAL CORPORATION

By: 
P. J. Loughton, Secretary

Dated: March 27, 1995

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 07 1995


Secretary of State

M

109674

State of Minnesota

SECRETARY OF STATE

Certificate of Dissolution

Articles of Dissolution, or, in the case of a non-Minnesota corporation, a certificate of dissolution from the state of incorporation, for the corporation listed below have been filed with the Office of the Secretary of State of Minnesota on this date, at 4:30 P.M. (unless otherwise noted), pursuant to the requirements of the chapter listed below. Therefore, the corporation is hereby dissolved and its corporate existence is terminated as of this date, or, in the case of a non-Minnesota corporation, the authority of the corporation to do business in Minnesota is terminated as of this date and time.

Name of Dissolving Corporation: Alumbaugh Coal Corporation

State of Incorporation: MN

Corporate Charter or Foreign Corporation Number: 2E-780

Dissolved or terminated Pursuant to Chapter: 302A

This certificate has been issued and the corporation is dissolved or authority to do business is terminated on:
04/07/1995 at 4:30 P.M.



Joan Anderson Grove
Secretary of State.

Kirkpatrick & Lockhart LLP

Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507
717.231.4500
www.kl.com

March 17, 2000

Joel R. Burcat
717.231.4518
Fax: 717.231.4501
jburcat@kl.com

Matthew B. Royer, Esq.
Assistant Counsel
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue, 3rd Floor
P.O. Box 8200
Harrisburg, PA 17105

Re: ***DCCO Inc. v. Department of Environmental Protection,***
EHB Docket No. 99-161-R

Dear Matt:

Enclosed please find the documentation that we have discussed regarding Coal Junction Coal Company. As we have discussed, Coal Junction Coal Company was dissolved in 1984. The Department's research showing that the company is still active is in error.

I am enclosing three sets of documents for your information. The first are the Articles of Incorporation of Coal Junction Coal Company, dated January 14, 1953. Attached to the articles is the Certificate of Incorporation, dated January 14, 1953. This shows Coal Junction Coal Company going into business.

The next document is the Certificate of Election to Dissolve - Domestic Business Corporation filed with the Commonwealth of Pennsylvania, Department of State, on December 27, 1984. With the filing of the Certificate of Election to Dissolve, Coal Junction Coal Company discontinued its corporate existence.

I am also enclosing a copy of a letter sent by Donovan Companies, Inc. to the Internal Revenue Service on January 3, 1985. Attached to that letter is IRS Form 966 indicating that Coal Junction Coal Company had dissolved. Also attached to that letter is the unanimous written agreement of shareholders consenting to voluntary dissolution of Coal Junction Coal Company, a Pennsylvania Corporation, dated December 18, 1984. This document is a further indication of the termination of Coal Junction Coal Company.

In the parlance of our corporate lawyers, Coal Junction Coal Company is "dead and buried."

HA-89825.01

Kirkpatrick & Lockhart LLP

Matthew B. Royer, Esq.

March 17, 2000

Page 2

I have seen the same document to which you have referred indicating that a company called Coal Junction Coal Company, Inc. was incorporated in 1985. This is a new and different company. The document to which you have referred from 1998 must be related to that new company, as the old company is no longer in existence.

As we have repeatedly stated to the Commonwealth, Coal Junction Coal Company no longer exists and my client will not execute any document indicating that it is "DCCO trading and doing business as Coal Junction." As we have stated repeatedly to you, DCCO is the guarantor on the bond for the Sheffel Mine formerly operated by Coal Junction Coal Company. It would be inaccurate and wrong to indicate that the identity of my client is "DCCO t/dba Coal Junction."

I hope that the enclosed information clears up this issue. The documents that I have enclosed are the equivalent of a "Corporate Death Certificate." I would be pleased to discuss this with you if you have any additional questions.

Very truly yours,



Joel R. Burcat

Enclosures

cc: Jon Andreasen, Esq. (w/encl.)

ARTICLES OF INCORPORATION

3-1-53.02 0

TO THE DEPARTMENT OF STATE;
COMMONWEALTH OF PENNSYLVANIA:

In compliance with the requirements of the "BUSINESS CORPORATION LAW," approved the 5th day of May, A. D. 1933, P. L. 364, as amended, the undersigned, desiring that they may be incorporated as a business corporation, do hereby certify:

1st. The name of the corporation is COAL JUNCTION COAL CO.

2nd. The location and post office address of its initial registered office in this Commonwealth is

R.F.D. #1, Friedens, Somerset County, Pennsylvania
(number) (street) (city) (county)

3rd. The purpose or purposes of the corporation are: To mine by deep and surface or strip method, buy and sell coal, to purchase, own, and develop, lease, work and operate coal mines and lands, mining rights, and coal property, and to carry on the business of coal mining in all its branches and manufacturing of all coal products, and to buy, purchase, lease and sell such vehicles and other equipment as may be necessary to effectuate these purposes, and do all other things to effectuate and facilitate the same.

4th. The term of its existence is perpetual.

5th. The authorized capital stock of the corporation is \$100,000.00 divided into

One Thousand (1,000) Shares of common stock, having a par value of One Hundred (\$100.00) Dollars per share. The holders of shares of stock in this corporation shall have preemptive rights.

6th. The value of the property with which the corporation will begin business is \$40,000.00

*Note: There should be set forth the number and par value of all shares having par value, the number of shares without par value, and the stated capital applicable thereto. If the shares are to be divided into classes, a description of each class, and a statement of the preferences, qualifications, limitations, restrictions, and the special or relative rights granted to, or imposed upon, the shares of each class.

7th. The names and addresses of the first directors:

2-1-53.02

Name

Address
(including street and number, if any)

N. S. Critchfield, R.F.D. #1, Friedens, Somerset County, Pennsylvania
J. M. Lynch Jr., R.F.D. #5, Somerset, Somerset County, Pennsylvania
Robert Ankeny, R.F.D. #1, Friedens, Somerset County, Pennsylvania
David D. Lynch, R.F.D. #5, Somerset, Somerset County, Pennsylvania

8th. The names and addresses of the incorporators and the number and class of shares subscribed by each are:

Name	Address (including street and number, if any)	No. and Class of Shares
N. S. Critchfield, R.F.D. #1, Friedens, Pa.		400, common
Robert Ankeny, R.F.D. #1, Friedens, Pa.		1, common
J.M. Lynch Jr., R.F.D. #5, Somerset, Pa.		1, common
David D. Lynch, R.F.D. #5, Somerset, Pa.		1, common

9th. The number of incorporators who are citizens of the United States is four

N. S. Critchfield (SEAL) Robert Ankeny (SEAL)
J. M. Lynch Jr. (SEAL) David D. Lynch (SEAL)
____ (SEAL) _____ (SEAL)

Commonwealth of Pennsylvania } ss:
County of SOMERSET

Before me, a Notary Public in and for the county aforesaid, personally

came the above named, N. S. Critchfield, Robert Ankeny, J. M. Lynch Jr., and
David D. Lynch

who, in due form of law, acknowledged the foregoing instrument to be their act and deed for the purposes therein specified.

Witness my hand and seal of office the 13th day of January A. D. 1953

Robert W. Critchfield
My comm. expires at end of next session
of the Senate.

Approved by the Department of State, 11th day of January A. D. 19 53

RECORDED

INDEXED

James P. Smith
Secretary of the Commonwealth

3-1-53.02

Commonwealth of Pennsylvania



Department of State

To All To Whom These Presents Shall Come, Greeting:

Whereas, In and by the Business Corporation Law, approved the 5th day of May, Anno Domini, one thousand nine hundred and thirty-three, the Department of State is authorized and required to issue a

CERTIFICATE of INCORPORATION

evidencing the incorporation of a business corporation organized under the provisions of that law.

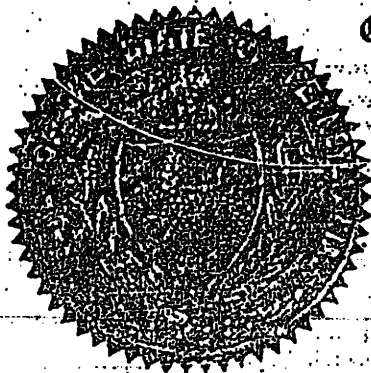
And Whereas, The stipulations and conditions of that law have been fully complied with by the persons desiring to incorporate as

COAL JUNCTION COAL CO.

Therefore, Know Ye, That subject to the Constitution of this Commonwealth and under the authority of the Business Corporation Law, I do by these presents, which I have caused to be sealed with the Great Seal of the Commonwealth, create, erect, and incorporate the incorporators of and the subscribers to the shares of the proposed corporation named above, their associates and successors, and also those who may thereafter become subscribers or holders of the shares of such corporation, into a body politic and corporate in deed and in law by the name chosen and hereinbefore specified, which shall exist

perpetually

and shall be invested with, and have and enjoy all the powers, privileges, and franchises incident to a business corporation and be subject to all the duties, requirements, and restrictions specified and enjoined in and by the Business Corporation Law and all other applicable laws of this Commonwealth.



Given under my Hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this
11th day of January
in the year of our Lord one thousand nine
hundred and fifty-three and of
the Commonwealth the one hundred and
seventy-seventh

James Smith

Secretary of the Commonwealth

APPLICATION NO.

UJCB: BCL-1103 (Rev. 8-72)

Filing Fee \$44
CES-24

Certificate of
Election to Dissolve—
Domestic Business Corporation

84791116

(Line for numbering)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

Filed this _____ day of _____
DEC 27 1984 19
Commonwealth of Pennsylvania
Department of State

William L. Davis

Secretary of the Commonwealth

(Box for Certification)

In compliance with the requirements of section 1103 of the Business Corporation Law, act of May 5, 1933 (P. L. 364) (15 P. S. §2103) the undersigned corporation, desiring to elect to dissolve, hereby certifies that:

1. The name of the corporation is:
Coal Junction Coal Co.

2. The address of the registered office of the corporation in this Commonwealth is (the Department of State is hereby authorized to correct the following statement to conform to the records of the Department):

R.D.1

(NUMBER)

Friedens

(CITY)

(STREET)

Pennsylvania

15541

(ZIP CODE)

3. The names and addresses, including street and number, and official titles of its officers are:

NAME

ADDRESS

OFFICIAL TITLE

Joseph Method

Hooversville, PA.

President

James Kranz

Friedens, PA.

Treasurer

Robert Bussen

Friedens, PA.

Secretary

4. The names and addresses, including street and number, of its directors are:

NAME

ADDRESS

Joseph Method

Hooversville, PA.

James Kranz

Friedens, PA.

Gerald Donovan

Friedens, PA.

5. (Check, and if appropriate, complete one of the following):

☒

All shareholders of record signed personally or by their duly authorized attorneys an agreement consenting to the dissolution.

☐

A resolution recommending that the corporation be dissolved was adopted by the shareholders at a meeting held in accordance with law.

(1) At the time of the action of the shareholders:

(i) The total number of shares outstanding was:

227.75

84791117

DSCB BCL-1103 (Rev. 8-72)-2

(1) The number of shares entitled to vote was:

227.75

(2) In the action taken by the shareholders:

(i) The number of shares voted in favor of the action was:

227.75

(ii) The number of shares voted against the action was:

NONE

IN TESTIMONY WHEREOF, the undersigned corporation has caused this certificate to be signed by a duly authorized officer and its corporate seal, duly attested by another such officer, to be hereon affixed this 21st day of December, 1984

COAL JUNCTION COAL CO.

By:

James J. King
(SIGNATURE)
Treasurer

(TITLE, PRESIDENT, VICE PRESIDENT, ETC.)

Attest:

Robert M. Bussan
(SIGNATURE)

Secretary

(TITLE, SECRETARY, ASSISTANT SECRETARY, ETC.)

(CORPORATE SEAL)

INSTRUCTIONS FOR COMPLETING FORM:

A. If the space in Paragraphs 3 and 4 is not adequate the form should be expanded accordingly.

B. Where action is taken by partial written consent pursuant to the Articles or by the action of one or more shareholders of a statutory close corporation under BCL §386 (15 P. S. §1386), the first alternate of Paragraph 5 should be modified accordingly.

C. If the shares of any class are entitled to vote as a class, the number of shares so entitled and the number of shares of all other classes entitled to vote should be set forth in clause (1)(i) of the second alternate of Paragraph 5, and the number of shares of such class and the number of shares of all other classes voted for and against the election to dissolve respectively should be set forth in clause (2) of the second alternate of Paragraph 5.

RECEIVED
DEC 27 AM 9 30
DEPT. OF STATE

Donovan Companies, Inc.

1080 MONTREAL AVENUE
TELEPHONE: 690-1761

Saint Paul, Minnesota 55116

January 3, 1985

Internal Revenue Service Center
1160 West 1200 South St.
Ogden, Utah 84201

Gentlemen:

On December 21, 1984, we filed completed forms 966 for the following companies:

Coal Junction Coal Co. 25-0998305

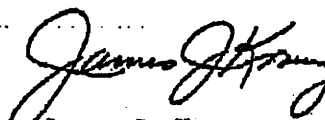
C & P Coal Co., Inc. 25-1098266

Upon reviewing the filing, we noticed we had not enclosed a copy of the Unanimous Written Agreement of Shareholders Consenting To Voluntary Dissolution for the Related Companies.

Enclosed please find copies of such Agreements, together with copies of the completed Forms 966. Please excuse any inconvenience this has caused.

Very truly yours,

DONOVAN COMPANIES, INC.


James J. Kranz

JJK/
enc.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

966 1

1-26-62

Form **966**
(Rev. December 1981)
Department of the Treasury
Internal Revenue Service

Corporate Dissolution or Liquidation

(Required under Section 6043(a) of the Internal Revenue Code)

OMB No. 1545-0041

Expires 11-30-84

Name of corporation Coal Junction Coal Co.		Employer identification number 25-0998305	
Address (Number and street) R.D.#1		Check type of return <input checked="" type="checkbox"/> 1120 <input type="checkbox"/> 1120 DISC <input type="checkbox"/> 1120L <input type="checkbox"/> 1120M <input type="checkbox"/> 1120S <input type="checkbox"/> Other	
City or town, State and ZIP code Friedens, PA. 15541		3 Type of liquidation <input checked="" type="checkbox"/> Complete <input type="checkbox"/> Partial	
1 Date incorporated January 14, 1953	2 Place incorporated PA	Tax year ending Month Year December 1983 December 1984	
4 Internal Revenue Service Center where last income tax return was filed and tax year covered	Service Center Ogden, Utah		
5 Date of: adoption of resolution or plan of dissolution, or complete or partial liquidation December 18, 1984	6 Tax year of final return Was final return filed with a parent corporation (consolidated return)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter: Name of parent corporation ► Donovan Companies, Inc. Employer identification number ► 41-0647871 IRS Center where consolidated return was filed ► Ogden, Utah		
7 Total number of shares outstanding at time of adoption of plan or liquidation		Common 227.75	Preferred
8 Dates of any amendments to plan of dissolution NONE	9 Section of the Code under which the corporation is to be dissolved or liquidated Section 331	10 If this return concerns an amendment or supplement to a resolution or plan for which a return was filed, give the date filed	

Liquidation Within One Calendar Month.—Please submit the statements below for a domestic corporation if any of the shareholders claim benefit of section 333 and if the liquidation plan provides for (1) a distribution to cancel or redeem all the corporation's capital stock and (2) transfer of all the corporation's property within 1 calendar month under section 333.

(a) A description of the voting power of each class of stock.

(b) A list of all shareholders as of the date the liquidation plan was adopted. Show the number of shares each shareholder owns in each class of stock, the certificate numbers, and the number of votes each was entitled to cast concerning the adoption of the liquidation plan.

(c) A list of all corporate shareholders as of January 1, 1954. Show the number of shares each one owned in each class of stock, the certificate numbers, and the number of votes each was entitled to cast concerning the adoption of the liquidation plan. Also explain all changes in corporate ownership of stock after December 31, 1953, through the date the liquidation plan was adopted.

(d) A computation, as described in Regulation section 1.6043-2(b), of accumulated earnings and profits. Follow the format in Revenue Procedure 75-17, 1975-1 C.B. 677, and include all income and expenses accrued up to the date all property is transferred.

Attach a certified copy of the resolution or plan, together with all amendments or supplements not previously filed.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

James J. Krueger
Signature of officer

December 20, 1984

TREASURER

Date Title

Instructions

Paperwork Reduction Act Notice.—The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

1. **Who must file.**—A corporation files Form 966 if it is to be dissolved or if any of its stock is to be liquidated. Exempt organizations are not required to file Form 966. These organizations should see the Instructions for Form 990 or 990-PF.

Shareholders electing to be covered under Code section 333 must also file Form 964 within 30 days after the date of adoption of the plan of liquidation.

2. **When to file.**—File Form 966 within 30 days after the resolution or plan is adopted to dissolve the corporation or liquidate

any of its stock. If the resolution or plan is amended or supplemented after Form 966 is filed, file an additional Form 966 within 30 days after the amendment or supplement is adopted. The additional form will be sufficient if you show the date the earlier form was filed and attach a certified copy of the amendment or supplement and all other information required by Form 966 and not given in the earlier form.

3. **Where to file.**—File Form 966 with the Internal Revenue Service Center where the corporation is required to file its income tax return.

4. **Signature.**—The return must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other corporate officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign and date any return required to be filed on behalf of a corporation.

UNANIMOUS WRITTEN AGREEMENT
OF SHAREHOLDERS
CONSENTING TO VOLUNTARY DISSOLUTION
OF COAL JUNCTION COAL COMPANY, A
PENNSYLVANIA CORPORATION

We, the undersigned, being all of the Shareholders of record of Coal Junction Coal Company, do hereby agree that this corporation be dissolved and the proper officers of this corporation are hereby authorized and directed to take such steps as are necessary to dissolve the same according to the following plan of liquidation:

The corporation is being liquidated pursuant to Section 331(a) of the Internal Revenue Code (it being understood and confirmed that Section 332 of said Code does not apply for the reason that the corporation is insolvent);

All liabilities and obligations of the corporation will be paid or discharged or adequate provision will be made therefor and after the provision for, or the payment of, the known debts and liabilities of the corporation, the officers of the corporation are authorized and directed to distribute the remaining assets of the corporation to the Shareholders of record in interests in each of such assets equal to the proportion that the shares of this corporation owned by such Shareholder

bears to the total issued and outstanding shares of this corporation;

The distribution of the assets shall be made to the Shareholders of this corporation on condition that each Shareholder surrender for cancellation the certificate or certificates evidencing his ownership of capital stock of this corporation and that such distribution shall be in complete satisfaction of the rights of each Shareholder as a Shareholder of this corporation;

The officers of this corporation are authorized to do such acts and to take such steps as may be necessary or convenient to carry the plan of liquidation into effect, including, but not limited to, the execution of such instruments as may be required to vest title to the assets of this corporation in the Shareholders; and,

As soon as the assets of this corporation have been distributed in conformity with this plan of liquidation, the officers of this corporation are hereby authorized and directed to execute Articles of Dissolution pursuant to the provisions of the Pennsylvania Business Corporation Law and to cause such Articles of Dissolution to be filed in the Office of the Department of State and to

do all other things necessary or convenient to the
dissolution of this corporation.

IN WITNESS WHEREOF, each of the undersigned Shareholders
of record has signed his name, the date of signing, and the
number of shares of the corporation held by him of record on
said date.

<u>Name</u>	<u>Date</u>	<u>Number of Shares</u>
DONOVAN CONSTRUCTION CO.		
By <u>John F. Donovan</u> JOHN F. DONOVAN PRESIDENT	<u>December 18, 1984</u>	<u>227.75</u>